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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Second periodic reports of States parties due in 1984

Addendum

CYPRUS*

[19 July 1993]

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* For the initial report submitted by the Government of Cyprus, see document CCPR/C/1/Add.6, and for the first part of its consideration, see CCPR/C/SR.27 and SR.28 or Official Records of the General Assembly, Thirty-second Session, Supplement No. 44 (A/32/44), paras. 116-118. For the supplementary report containing additional information submitted in reply to questions posed by the Committee, see document CCPR/C/1/Add.28. For the continuation of the consideration of the initial report and the consideration of the supplementary report, see CCPR/C/SR.165 and SR.166 or Official Records of the General Assembly, Thirty-fourth session, Supplement No. 40 (A/34/40), paras. 372-389.

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I. GENERAL

1. Most of the civil and political rights embodied in the International Covenant on Civil and Political Rights are adequately safeguarded by the Constitution of Cyprus, part II, on fundamental rights and liberties. Under the Treaty of Establishment of the Republic of Cyprus, article 5, it is provided that the Republic of Cyprus "shall secure to everyone within its jurisdiction human rights and fundamental freedoms comparable to those set out in Section 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on the 4th of November 1950, and the Protocol to that Convention, signed at Paris on the 20th March 1952".

2. The Rome Convention and the Protocol have served as the prototypes for drafting the relevant provisions in the Cyprus Constitution. The Republic of Cyprus ratified the Rome Convention and its First Protocol in 1962 by means of the European Convention on Human Rights (Ratification) Law (Law No. 39 of 1962). By virtue of such ratification, and by virtue of the provisions of article 169 (3) of our Constitution, the provisions of the Rome Convention and its First Protocol have superior force to any municipal Law in Cyprus; thus, these provisions have become part of the law of Cyprus alongside the fundamental rights and liberties provisions in part II of our Constitution.

3. The present Covenant has been ratified by Law No. 14 of 1969 of the Republic of Cyprus and forms part of the municipal law of Cyprus having superior force to any other municipal law (art. 169 (3) of the Constitution).

4. The Constitution of Cyprus not only defines the fundamental rights and liberties in clear legal language, but also provides effective remedies for their enforcement. Under article 35, the legislative, executive and judicial authorities of the Republic shall be bound to secure, within the limits of their respective competence, the efficient application of the provisions relating to fundamental rights and liberties. A law which in any way violates any of the constitutional provisions may be declared by the Supreme Court as unconstitutional. Moreover, if the fundamental rights of a person are violated by any administrative act, that person may apply to the administrative authority for redress under article 29 of the Constitution, and/or he may file a recourse to the Supreme Court under article 146 for the annulment of such act as being contrary to law or made in excess or abuse of powers, whereupon the Supreme Court may declare such act as null and void and of no effect whatsoever. Furthermore, the person aggrieved may resort to the Supreme Court for any of the prerogative orders of habeas corpus, mandamus, prohibition, quo warranto and certiorari, for which express provision exists in the Constitution (art. 155 (4)).

5. In the implementation of the provisions of the Covenant the decision of the Supreme Court in the case Malachtos v. Armeftis and another (Civil Appeal No. 6616, 20 January 1987) is of paramount importance regarding self-executing provisions of the Covenant. The following extract from the said case explains the gist of the decision:

"In the Republic of Cyprus a convention negotiated or signed under a decision of the Council of Ministers and ratified by a law made by the House of Representatives and published in the Official Gazette of the Republic acquires superior force to any municipal law.

"... the convention has superior force not in the sense of repealing the inconsistent domestic law but in the sense of having superiority and precedence in its application.

"We agree with counsel for the appellant that for a treaty to be applicable it must be self-executing. We need not in this case attempt to give a general definition of the term 'self-executing treaty'. Pious declarations and provisions relating to political and international relations in a convention are not self-executing provisions. Only such provisions of a convention are self-executing which may be applied by the organs of the State and which can be enforced by the courts and which create rights for the individuals; they govern or affect directly relations of the internal life between the individuals, and the individuals and the State or the public authorities. Provisions which do not create by themselves rights or obligations of persons or interests and which cannot be justiciable or do not refer to acts or omissions of State organs are not self-executing.

"Those treaties which do not require any legislation to make them operative are sometimes referred to as 'self-executing'. It seems that Congress has been so prompt to pass legislation for the implementation of treaties that there have been very few opportunities of judicial determination of the question which treaties actually require legislation, and which do not, and it does not follow that, because legislation was passed to implement a treaty, the legislation was essential."

6. The Republic of Cyprus has ratified the Optional Protocol to the International Covenant on Civil and Political Rights by enacting Law No. 17 (III) of 1992. By the ratification of this protocol the Republic of Cyprus recognizes the competence of the Human Rights Committee set up in part IV of the Covenant to receive and consider communication from individuals claiming to be victims of violation of any of the rights set out in the Covenant.

7. The Republic of Cyprus has adopted a number of legislative measures which are necessary to give effect to this provision of the Convention. In particular the following Laws were enacted:

(a) The Legal Status of Children Born out of Wedlock (Ratification) Law, 1979 (Law No. 50 of 1979);

(b) Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (Ratification) Law, 1983 (Law No. 57 of 1983);

(c) Maternity Protection Law, 1987 (Law No. 54 of 1987);

(d) European Convention for the Protection of Human Rights (Fourth Protocol) (Ratification) Law, 1989 (Law No. 52 of 1989);

(e) First Amendment of the Constitution Law, 1989 (Law No. 95 of 1989);

(f) The Mentally Retarded Persons Law, 1989 (Law No. 117 of 1989);

(g) The Cyprus University Law, 1989 (Law No. 144 of 1989);

(h) Press Law, 1989 (Law No. 145 of 1989);

(i) The Central Youth Agency Law, 1989 (Law No. 154 of 1989);

(j) Equal Pay for Men and Women for Work of Equal Value Law, 1989 (Law No. 158 of 1989);

(k) The Public Service Law, 1990 (Law No. 1 of 1990 as amended by Law Nos. 71 of 1991 and 211 of 1991);

(l) Family Courts Law, 1990 (Law No. 23 of 1990);

(m) Radio Stations Law, 1990 (Law No. 120 of 1990);

(n) Universal Copyright Convention (Ratification) Law, 1990 (Law No. 151 of 1990);

(o) Parents and Children Relations Law, 1990 (Law No. 216 of 1990);

(p) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Ratification) Law, 1990 (Law No. 235 of 1990);

(q) Convention on the Rights of the Child (Ratification) Law, 1990 (Law No. 243 of 1990);

(r) Commissioner for Administration Law, 1991 (Law No. 3 of 1991);

(s) Convention concerning Minimum Standards of Security (Ratification) Law, 1991 (Law No. 158 of 1991);

(t) European Social Insurance Code (Ratification) Law, 1991 (Law No. 159 of 1991);

(u) Public Corporation (Evaluation of Freedom of Speech, Opinion and Civil Rights of Servants) Law 1990 (Law No. 155 of 1990 amended by Law No. 210 of 1991);

(v) Legal Status of Children Law, 1991 (Law No. 187 of 1991);

(w) Property Rights of Spouses (Regulation) Law, 1991 (Law No. 232 of 1991);

(x) Public Educational Service (Amendment) Law, 1991 (Law No. 251 of 1991);

(y) International Convention on the Elimination of All Forms of Racial Discrimination (Ratification) Law, 1967 (Amendment) Law, 1992 (Law No. 11 (III) of 1992) (see para. 81).

This Law amends the Law under which the International Convention on the Elimination of All Forms of Racial Discrimination was ratified in 1967 (Law No. 12 of 1967);

(z) Optional Protocol to the International Covenant on Civil and Political Rights (Ratification) Law, 1992 (Law No. 17 (III) of 1992).

8. In 1991 a Commissioner for Administration (Ombudsman) was appointed under the provisions of the Commissioner for Administration Law, 1991 (Law No. 3 of 1991). According to the provisions of section 5 of this Law, the Commissioner may investigate complaints involving allegations of illegality, violation of human rights and contravention of the principles of "proper administration" and good government, including breaches of natural justice and improper exercise of discretionary power. The appointment of a Commissioner for Administration opens for the citizens of the Republic another avenue for pursuing their rights.

9. In Part II of the present report each right recognized in the present Covenant shall be examined separately, setting out the corresponding provision of the Constitution as well as the legislative or other measures which are in force and which give effect to certain provisions of the Covenant. The answers to all the queries set out in paragraph 3, part I of the "General guidelines regarding the form and contents of reports from State parties under article 40 of the Covenant" shall be given in part II of this report.

10. Under article 183 of the Constitution of Cyprus the Government of Cyprus has power to declare by proclamation a state of emergency and suspend certain articles of the Constitution to the same effect as the provisions of article 4 of the Covenant. Yet, despite the devastating effects of the invasion of Cyprus by Turkey in 1974, no state of emergency was declared (see para. 26).

II. INFORMATION RELATING TO ARTICLES 1 TO 27 OF THE COVENANT

Article 1

11. The Republic of Cyprus respects the right of all peoples to self-determination as defined in the Covenant (and which, as stated above, forms part of the municipal law of Cyprus). Furthermore, in accordance with paragraph 3 of article 1 of the Covenant, the Republic of Cyprus has, since its emergence from colonial rule in 1960, been in the vanguard of peoples fighting for the exercise of their right of self-determination and has supported them with all means at its disposal.

Article 2

Paragraph 1

12. The equality of enjoyment and protection of human rights is safeguarded by the provisions of article 28 (2) of the Constitution of Cyprus which provides that "every person shall enjoy all the rights and liberties provided for in this Constitution without any direct or indirect discrimination against any person on the ground of his community, race, religion, language, sex, political or other convictions, national or social descent, birth, colour, wealth, social class, or on any ground whatsoever, unless there is express provision to the contrary in this Constitution".

13. As a result of the occupation of approximately 37 per cent of the territory of the Republic of Cyprus by the armed forces of Turkey, the Government of the Republic is prevented from exercising its authority over and assuring respect of human rights in the occupied area. Therefore, the information given in this report concerns only persons under the effective jurisdiction of the Republic of Cyprus.

Paragraph 2

14. The Republic of Cyprus has adopted a number of legislative measures which are necessary to give effect to this provision of the Convention. In particular the following laws are relevant:

(a) The Mentally Retarded Persons Law, 1989 (No. 117 of 1989). By this Law the rights of mentally retarded persons are reaffirmed, a committee is set up to supervise the implementation of the provisions of the Law, a fund is established for the purposes of the Law and mentally retarded persons are treated as infants for purposes of the administration of their property, if they are unable to administer it themselves;

(b) Commissioner for Administration Law, 1991 (Law No. 3 of 1991);

(c) International Convention on the Elimination of All Forms of Racial Discrimination (Ratification) Law of 1967 (Amendment) Law, 1992 (Law No. 11 (III) 1992). By this Law the Law ratifying the Convention is amended by the addition of a section under which a number of acts or activities promoting racial discrimination constitute offences;

(d) Optional Protocol to the International Covenant on Civil and Political Rights (Ratification) Law, 1992 (No. 17 (III) of 1992);

(e) Equal Pay for Men and Women for Work of Equal Value Law, 1989 (Law No. 158 of 1989).

15. The fact that acts promoting discrimination, hatred and violence constitute offences is no bar to civil proceedings for compensation. In fact, this may create a civil right which might not have existed before (sect. 67 of chap. 148 as amended by Law No. 87 of 1973).

Paragraph 3

16. The mere declaration of human rights without any provision for their enforcement would be purposeless. For this reason the Constitution of Cyprus not only defines the rights in clear language but also provides effective remedies for their enforcement. The legislative, executive and judicial authorities of the Republic shall be bound to secure within the limits of their respective competence the efficient application of the provisions relating to fundamental rights and liberties (art. 35 of the Constitution). Where a positive legislative action is required to be taken, the legislature has a constitutional duty to take such action and enact the law required. On the other hand, if the provision of any law is in any way contrary to or inconsistent with constitutional provisions, such law may, on the question being raised in any judicial proceedings by any party aggrieved, be declared by the Supreme Court as unconstitutional, in which case it becomes inapplicable to such proceedings (art. 144). Any such decision of the Supreme Court is binding on all courts, organs, authorities and persons in the Republic (art. 149).

17. If the fundamental rights of a person are violated by any administrative act or omission that person may apply to the administrative authority for redress under article 29 of the Constitution and if he does not get satisfaction he may have recourse to the Supreme Court for the annulment of such act or omission as being contrary to the provisions of the Constitution or of any law or as having been made in excess or abuse of power, and the Supreme Court may declare that act as null and void or that such omission ought to have been made and that whatever has been omitted should have been performed (art. 146 of the Constitution). Under paragraph 146 (6), in case of annulment of a decision, the person on whose application the decision was annulled is entitled to just and equitable compensation to be granted by a civil court on an action filed by him. Furthermore, the person aggrieved may resort to the Supreme Court for any of the prerogative orders of mandamus or quo warranto (art. 155 (4) of the Constitution).

18. If a person is aggrieved by a judicial act he may appeal to the Supreme Court and, further, he may apply for an order of certiorari or prohibition. Further, under article 172 of the Constitution, the Republic of Cyprus is liable to pay damages to any person who suffered damage caused by any wrongful act or omission committed in the exercise or purported exercise of the duties of officers or authorities of the Republic. This right of the individual is regulated by the Civil Wrongs Law (chap. 148 of the Laws of Cyprus). Further, the Civil Wrongs Law (chap. 148) gives the right to any person to claim damages against another person committing a civil wrong against him, e.g. in case of defamation, of assault, negligence, trespass, etc. Remedies in respect of infringement of all rights are given by competent courts established under the provisions of articles 152-155 of the Constitution and Laws 14 of 1960 and 33 of 1964.

19. There is adequate machinery through the courts for the enforcement of all legal remedies. Disobedience of an order of the court is punishable by imprisonment. Execution of civil judgements is regulated by the Civil Procedure Law (chap. 6 of the Laws of Cyprus) and the Civil Procedure Rules.

20. The Republic of Cyprus submitted in 1988 the tenth report with regard to the International Convention on the Elimination of All Forms of Racial Discrimination and will shortly submit the eleventh and twelfth reports.

Article 3

21. The principle of equality of women and men and the prohibition of discrimination on the ground of sex is explicitly guaranteed in the Cyprus Constitution of 1960, article 28 of which reads as follows:

> "1. All persons are equal before the law, the administration and justice and are entitled to equal protection thereof and treatment thereby.
>
> "2. Every person shall enjoy all the rights and liberties provided for in this Constitution without any direct or indirect discrimination against any person on the ground of his community, race, religion, language, sex, political or other convictions, national or social descent, birth, colour, wealth, social class, or on any ground whatsoever, unless there is express provision to the contrary in this Constitution.
>
> "3. No citizen shall be entitled to use or enjoy any privilege of any title of nobility or of social distinction within the territorial limits of the Republic.
>
> "4. No title of nobility or other social distinction shall be conferred by or recognized in the Republic."

22. Cyprus became a State party to various international conventions which guarantee equal rights between women and men, including the following:

(a) International Covenant on Economic, Social and Cultural Rights (ratified by Law No. 14 of 1969);

(b) International Covenant on Civil and Political Rights (ratified by Law No. 14 of 1969);

(c) European Convention for the Protection of Human Rights and Fundamental Freedoms (ratified by Law No. 39/1962) and relevant protocols;

(d) European Social Charter (ratified by Law No. 64 of 1967);

(e) ILO Convention No. 111 on Discrimination (Employment and Occupation) (ratified by Law No. 3 of 1968);

(f) Convention on the Political Rights of Women (ratified by Law No. 107 of 1968);

(g) Convention against Discrimination in Education (ratified by Law No. 18 of 1970);

(h) Convention on the Nationality of Married Women of 1957 (the Convention had been ratified by Britain when Cyprus was a British colony and is in force in Cyprus since 1897, as there has been a notification of succession);

(i) Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (ratified by Law No. 57 of 1982);

(j) Convention on the Elimination of All Forms of Discrimination Against Women (ratified by Law No. 78 of 1985). This Convention has provided since its ratification the general framework for government policy in promoting the advancement of women in Cyprus;

(k) ILO Convention No. 100 on Equal Remuneration (ratified by Law No. 313 of 1987).

23. The Republic of Cyprus in its programme for the reform and modernization of the Family Law has enacted a number of new laws aiming, inter alia, at bringing domestic laws in line with the provisions of international conventions. These legal measures include the following:

(a) The Protection of Maternity Law, 1987 (Law No. 54 of 1987) which provides for maternity leave of 12 weeks' duration for all employed women with full pay, nursing breaks and the protection of pregnant women from dismissal and from work which may be detrimental to them or their child's health;

(b) The First Amendment of the Constitution Law of 1989 (Law No. 95 of 1989) which was made with a view to facilitating the reform and modernization of the Family Law. In particular, this Law amended article 111 of the Constitution according to which matters of marriage and divorce were governed exclusively by the law of the Church and the jurisdiction of these matters belonged to the ecclesiastical courts. The amendment of the Constitution made possible the enactment of the Family Courts Law 1990 (Law No. 23 of 1990) in consequence of which family courts were set up and all matters relating to family relations were transferred there;

(c) The enactment of Parents and Children Relations Law 1990 (Law No. 216 of 1990) ended the patriarchal authority established by the previous legislation regarding parental care. This care is now both a duty and a right of both parents, who exercise it jointly for the best interest of the child. This Law covers everything relating to the guardianship of the children, the administration of their property and their representation in all cases or legal acts concerning them or their property. If the parents disagree on the exercise of the parental care and the interest of the child makes it imperative for a decision to be taken, the decision is taken by the court on the application of either parent. In cases of divorce, annulment of marriage or separation of the parents, the court decides as to whom the parental care should be given. In such a case, the court takes into consideration, among other things, the interest of the child and also hears his/her views. The parental care of a child born out of wedlock belongs to the mother and, in case of legitimation, the father acquires parental care as well. The parental

care can be taken away by the court on the application of one of the parents or of the Director of the Welfare Office. The Court can also appoint a guardian to whom the parental care is given;

(d) The Legal Status of Children Law, 1991 (Law No. 187 of 1991) was enacted in order to give effect to the provisions of the European Convention on the Legal Status of Children born out of Wedlock which was ratified by Law No. 50 of 1979. According to the provisions of this Law the legitimation procedures have been simplified with the aim of facilitating children born out of wedlock (the term "illegitimate children" is also abolished) to become members of a family and be afforded the same rights as other children;

(e) The Property Rights of Spouses (Regulation) Law, 1991 (Law No. 232 of 1991) was enacted with a view to granting equal rights and responsibilities to women and men with regard to the acquisition, administration and sharing of family property and the payment of maintenance by one spouse to the other spouse in the case of a separation or to the former spouse in the case of a divorce. Under this new Law the marital couple decide jointly on all matters relating to the marriage and each contributes to meeting the needs of the family in accordance with his/her means.

24. The Republic of Cyprus also enacted a law safeguarding the rights of women to equal pay for work of equal value under the title Equal Pay for Men and Women for Work of Equal Value Law of 1989 (Law No. 158 of 1989). It also enacted earlier in 1987 the Convention on Equal Pay for Work of Equal Value (Law No. 313 of 1987).

Domestic violence

25. As the victims of the phenomenon of domestic violence are usually the wives and the weaker members of the family, a bill was prepared in 1992 with a view to protecting such victims. It is hoped that this bill will be enacted into law in the current year. It provides in general for the prevention of violence in the family and the protection of the victims of such violence. In particular, under the bill:

(a) A number of offences involving violence are made aggravated offences if such violence is exercised by one to another member of the family;

(b) New offences are created;

(c) The court is empowered to issue probation orders with special requirements;

(d) The court can issue orders restraining the violent party from entering the family home;

(e) Reporting of the incident is made easier;

(f) The trial of such cases is expedited;

(g) There is provision for the appointment of family counsellors;

(h) There is provision for the setting up of an advisory council and of a fund.

Article 4

26. As stated above, under article 183 of the Constitution the Government of the Republic of Cyprus has the power to declare by proclamation a state of emergency and suspend certain articles of the Constitution (to the same effect as the provisions of this article). It should be noted that Cyprus has never proclaimed a state of emergency since independence, not even when the country was invaded by Turkey and part of it was (and continues to be) occupied. Despite the devastating effects those events had to the normal life in general (thousands of people lost their lives and 40 per cent of the Greek Cypriot population were displaced) and the upheaval they caused to the administration and economy of the country in particular, yet the provisions of article 183 of the Constitution were not invoked.

Article 5

27. The fundamental rights safeguarded by the Constitution may be subjected to reasonable restrictions or limitations in the public interest. However, the constitutional provisions relating to limitations or restrictions of the fundamental rights shall be interpreted strictly and shall not be applied for any purpose other than that for which they have been prescribed (art. 33 (2) of the Constitution). As decided by the Supreme Constitutional Court, "legislation involving interference with the Fundamental Rights and Liberties safeguarded under the Constitution ... and their construction, is governed by the settled principle that such provisions should be construed in case of doubt in favour of the said Rights and Liberties" (Case of Fina Cyprus Ltd. Nicosia v. The Republic (4 Records of the Supreme Constitutional Court at p. 33)).

Article 6

28. Article 6 corresponds to article 7 of the Constitution which provides:

"1. Every person has the right to life and corporal integrity.

"2. No person shall be deprived of his life except in the execution of a sentence of a competent court following his conviction of an offence for which this penalty is provided by law. A law may provide for such penalty only in cases of premeditated murder, high treason, piracy, jure gentium and capital offences under military law.

"3. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

"(a) in defence of person or property against the infliction of a proportionate and otherwise unavoidable and irreparable evil;

"(b) in order to effect an arrest or to prevent the escape of a person lawfully detained;

"(c) in action taken for the purpose of quelling a riot or insurrection, when and as provided by law."

29. It is wider as it also protects corporal integrity and contains a limitation for the legislature which cannot impose the death sentence except in case of premeditated murder, high treason, piracy, jure gentium and capital offences under military law. True, no provision is made about the crime of genocide in the Constitution as in paragraph 3 of this article. As regards paragraph 4, article 53 of the Constitution provides that the President has the right to exercise the prerogative of mercy with regard to persons who are condemned to death and in such a case the death sentence is commuted to life imprisonment. Also, it provides that the President shall on the recommendation of the Attorney-General remit, suspend or commute any sentence passed by a court in all other cases. The prerogative of mercy is neither an executive nor an administrative act in the sense of article 146 of the Constitution, therefore it is not subject to judicial review.

30. As regards paragraph 5 of this article, under the Criminal Code (chap. 154, section 27 (2)), the death penalty cannot be passed on persons under the age of 16. By section 27 (3) of the same Code the death sentence shall not be passed on a pregnant woman.

31. In 1983 the death penalty for premeditated murder was abolished and was substituted by mandatory life imprisonment (Law No. 86 of 1983). It should be noted that despite the fact that the death penalty was retained until 1983, there has only been one execution since 1960. It was in 1962. Death sentences imposed by the Court since 1962 were always commuted to life imprisonment by the exercise of the presidential prerogative of mercy, and since 1978 the penalty has not been pronounced.

32. In late 1990 the Military Criminal Code and Procedure Law (Law No. 40 of 1964) was also amended by the abolition of the death penalty for a number of military offences (Amending Law No. 238 of 1990). It is retained only for extremely serious offences during wartime or other circumstances of emergency and, by express provision, it does not constitute a mandatory sanction and is imposed, where guilt is proven, at the discretion of the Court. It may be substituted by imprisonment for life or for a shorter period. It should be noted that no death sentences have ever been imposed under the Military Criminal Code and Procedure Law.

33. The reason for retaining capital punishment for the most serious military crimes is connected with the highly anomalous situation which has been caused by the Turkish invasion and occupation of a large part of our country since 1974.

34. The competent authorities are contemplating the amendment of the context of these military offences so as to enable the Republic to become a party to Protocol No. 6 to the European Convention on Human Rights and the Second Optional Protocol to the International Covenant on Civil and Political Rights.

35. The capital offences under Military Criminal Code are:

(a) Section 13 - Treason;

(b) Section 14 - Surrender of entrusted post by military commander;

(c) Section 15 (a) - Capitulation in an open place by commander of armed military unit;

(d) Section 42 (2) - Instigating and/or leading a revolt within armed forces;

(e) Section 70 (1) - Transmission of military secrets to a foreign State or spy or agent;

(f) Section 95 (2) - Inciting and/or leading a revolt among prisoners of war;

There is no record that charges were ever made under any of the above provisions.

Article 7

36. Article 7 corresponds to article 8 of the Constitution which provides that "No person shall be subjected to torture or to inhuman or degrading treatment or punishment".

37. The subjection of any person to medical or scientific experimentation without his consent constitutes both a crime and a civil wrong entitling the person injured to claim damages by a civil action.

38. The Republic of Cyprus has ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment by enacting Law No. 24 of 1989. The Republic of Cyprus has also ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984 by enacting Law No. 235 of 1990. In that Law there are specific provisions making torture an offence punishable according to the degree of aggravating circumstances in each case. In particular, section 3 of the Law provides:

(a) Any person subjecting another person to torture is guilty of an offence and is liable:

(i) To imprisonment for three years;

(ii) To imprisonment for 10 years if he causes serious bodily injury to the tortured person or uses means or methods of systematic torture;

(b) If the person responsible for torture is a public officer or person acting under his official capacity he is liable:

(i) To imprisonment for five years;

(ii) To imprisonment for 14 years if there exists the aggravating circumstance referred to in paragraph (ii) of subsection (a) above;

(c) If as a consequence of torture the tortured person dies, the person responsible for the torture is liable to imprisonment for life;

(d) For the purposes of this section the word "torture" has the meaning assigned to it in article 1 of the Convention.

39. The Republic of Cyprus on 10 March 1993 made a declaration under articles 21 and 22 of the Convention recognizing the competence of the Committee established under article 17 of the Convention:

(a) To receive and consider communications to the effect that a State party claims that another State party is not fulfilling its obligations under the Convention (art. 21), and

(b) To receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State party of the provisions of the Convention (art. 22).

Article 8

40. This article corresponds to article 10 of the Constitution which provides that:

"1. No person shall be held in slavery or servitude.

"2. No person shall be required to perform forced or compulsory labour.

"3. For the purposes of this Article the term 'forced or compulsory labour' shall not include

"(a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 11 or during conditional release from such detention;

"(b) any service of a military character if imposed or, in case of conscientious objectors, subject to their recognition by a law, service exacted instead of compulsory military service;

"(c) any service exacted in case of an emergency or calamity threatening the life or well-being of the inhabitants."

41. Section 254 of the Cyprus Criminal Code (chap. 154) provides that "any person who unlawfully compels any person to labour against the will of that person is guilty of a misdemeanour and is liable to imprisonment for one year".

42. The Slave Trade Act of 1824 (English Act of Parliament) is applicable in Cyprus by virtue of the provisions of the Slave Trade Act, 1843 (sect. 9 of the Slave Trade Act 1824 is applicable to the British Dominions by virtue of its own provisions). It provides that "any person residing in any of the British Dominions present or future [Cyprus became a British Colony after that date] who knowingly carries away or conveys any person as a slave or for the purpose of being imported as a slave to any place or to be sold or dealt with as a slave or knowingly and wilfully ships or retains or confines in a ship any person as a slave, or for any such purpose, commits piracy". Piracy under the foregoing Act is a felony punishable by imprisonment for life or, if accompanied by assault with intent to murder any person on or belonging to the ships or wounding or endangering the life of any person, by death. Cyprus is already a party to the Slavery Conventions of 1926 and 1956. It has also ratified the International Labour Organisation Convention concerning the abolition of forced labour.

Article 9

43. This article corresponds to article 11 of the Constitution which provides that:

> "1. Every person has the right to liberty and security of person.
>
> "2. No person shall be deprived of his liberty save in the following cases when and as provided by law:
>
> "(a) the detention of a person after conviction by a competent court;
>
> "(b) the arrest or detention of a person for non-compliance with the lawful order of a court;
>
> "(c) the arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent him committing an offence or fleeing after having done so;
>
> "(d) the detention of a minor by a lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
>
> "(e) the detention of persons for the prevention of spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;

"(f) the arrest or detention of a person to prevent him effecting an unauthorised entry into the territory of the Republic or of an alien against whom action is being taken with a view to deportation or extradition.

"3. Save when and as provided by law in case of a flagrant offence punishable with death or imprisonment, no person shall be arrested save under the authority of a reasoned judicial warrant issued according to the formalities prescribed by the law.

"4. Every person arrested shall be informed at the time of his arrest in a language which he understands of the reasons for his arrest and shall be allowed to have the services of a lawyer of his own choosing.

"5. The person arrested shall, as soon as is practicable after his arrest, and in any event not later than 24 hours after the arrest, be brought before a judge, if not earlier released.

"6. The judge before whom the person arrested is brought shall promptly proceed to inquire into the grounds of the arrest in a language understandable by the person arrested and shall, as soon as possible and in any event not later than three days from such appearance, release the person arrested on such terms as he may deem fit or where the investigation into the commission of the offence for which he has been arrested has not been completed remand him in custody and may remand him in custody from time to time for a period not exceeding eight days at any one time.

Provided that the total period of such remand in custody shall not exceed three months of the date of the arrest on the expiration of which every person or authority having the custody of the person arrested shall forthwith set him free.

Any decision of the judge under this paragraph shall be subject to appeal.

"7. Every person who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

"8. Every person who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation."

44. There is no risk of any person being deprived of his liberty in any other case, as the provisions of article 11 enumerate exhaustively all cases where the arrest or detention of a person is possible under the law (case of Kyriakides v. the Republic (Records of the Supreme Constitutional Court 66). Furthermore, the powers of arrest by the police or by individuals are regulated by the Criminal Procedure Law (chap. 155) in accordance with article 11 of the Constitution.

Article 10

Paragraph 1

45. The corresponding article in the Constitution is article 8 which guarantees the dignity of man.

Paragraph 2

46. Under the Prisons Law and Regulations made thereunder accused persons are segregated from convicted persons and are subject to separate treatment appropriate to their status.

47. Accused juvenile persons, whether detained in prison or police stations, are always separated from adults. By article 30 (2) of the Constitution accused persons are to be tried within a reasonable time.

Paragraph 3

48. The essential aim of the penitentiary system in the Republic of Cyprus is, under the Prison Regulations (enacted between 1958 and 1973), the reform and social rehabilitation of the prisoners. Under the same regulations juvenile offenders are segregated from adults and are accorded treatment appropriate to their age and legal status. The Courts of Cyprus have on many occasions warmly and favourably commented on the penitentiary system of Cyprus.

49. The Ministry of Justice and Public Order is considering a revision of the legislation regarding prisons, prisoners and discipline. A bill is at the final stage of preparation. Provision is made in the bill, inter alia:

(a) For the prisoner, under guard or with a permit, to attend family functions (an improvement of the existing system);

(b) For leave to arrange for prisoners' future occupation;

(c) For private meetings of prisoners with their spouse (a new provision).

Article 11

50. No person is imprisoned in Cyprus for inability to fulfil a contractual obligation. In Cyprus a person can only be imprisoned for a civil debt under the provision of part VIII of the Civil Procedure Law (chap. 6). However, that provision is quasi-penal in the sense that the debtor is not imprisoned because of his inability to pay his debt but because he has (or had) the means to pay the debt and refuses or neglects to do so. Moreover, the imprisonment is terminated at the request of the creditor or when the debt is paid. Also, the creditor has to pay for the subsistence of the debtor during his detention.

51. The constitutionality of this part of the Law was the subject of a decision of the Supreme Constitutional Court in the case of Kaitanis v. Makris (3 Records of the Supreme Constitutional Court 14). In short, it was held that a wilful evasion of a judged debtor to pay his debt amounted to his "non-compliance with a lawful order of the court" in the sense of article 11.2 of the Constitution.

Article 12

52. This article corresponds to articles 13 and 14 of the Constitution. Article 13 provides that: "1. Every person has the right to move freely throughout the territory of the Republic and to reside in any part thereof subject to any restrictions imposed by law and which are necessary only for the purposes of defence or public health or provided as punishment to be passed by a competent court. 2. Every person has the right to leave permanently or temporarily the territory of the Republic subject to reasonable restrictions imposed by law". Article 14 provides that "No citizen shall be banished or excluded from the Republic of Cyprus". This constitutional protection against banishment or exclusion from the Republic is given only to citizens and not to aliens.

Article 13

53. Article 32 of the Constitution provides that nothing in this part (i.e. part II dealing with fundamental rights and liberties) shall preclude the Republic from regulating any matter relating to aliens in accordance with international law.

54. Deportation of aliens is only permissible under the provisions of section 14 of the Aliens and Immigration Law (chap. 105) which enumerates the cases in which the "appropriate organ" (the Chief Immigration Officer) can make a deportation order after a proper inquiry into the case. Deportation orders are mostly made on grounds of public interest, such as the protection of peace, good order, good government, public morals, public security, etc. A deportation order can be challenged by a recourse to the Supreme Court of Cyprus under article 146 of the Constitution, by the alien concerned.

Article 14

55. This article corresponds to the following articles of the Constitution:

(a) Article 28 (1): "All persons are equal before the law, the administration and justice and are entitled to equal protection thereof and treatment thereby.";

(b) Article 12 (2): "A person who has been acquitted or convicted of an offence shall not be tried again for the same offence. No person shall be punished twice for the same act or omission except where death ensues from such act or omission.";

(c) Article 12 (3): "No law shall provide for a punishment which is disproportionate to the gravity of the offence.";

(d) Article 12 (4): "Every person charged with an offence shall be presumed innocent until proved guilty according to law.";

(e) Article 12 (5): "Every person charged with an offence has the following minimum rights:

"(a) to be informed promptly and in a language which he understands and in detail of the nature and grounds of the charge preferred against him;

"(b) to have adequate time and facilities for the preparation of his defence;

"(c) to defend himself in person or through a lawyer of his own choosing or, if he has no sufficient means to pay for legal assistance, to be given free legal assistance when the interests of justice so require;

"(d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

"(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court."

(f) Article 30 (2): "In the determination of his civil rights and obligations or of any criminal charge against him, every person is entitled to a fair and public hearing within a reasonable time by an independent, impartial and competent court established by law. Judgement shall be reasoned and pronounced in public session, but the press and the public may be excluded from all or any part of the trial upon a decision of the court where it is in the interest of the security of the Republic or the constitutional order or the public order or the public safety or the public morals or where the interests of juveniles or the protection of the private life of the parties so require or, in special circumstances where, in the opinion of the court, publicity would prejudice the interests of justice."

(g) Article 30 (3): "Every person has the right:

"(a) to be informed of the reasons why he is required to appear before the court;

"(b) to present his case before the court and to have sufficient time necessary for its preparation;

"(c) to adduce or cause to be adduced his evidence and to examine witnesses according to law;

"(d) to have a lawyer of his own choice and to have free legal assistance where the interests of justice so require and as provided by law;

"(e) to have free assistance of an interpreter if he cannot understand or speak the language used in court."

56. The Criminal Procedure Law (chap. 155) and the Civil Procedure Rules, as regards the procedure to be followed in criminal and civil proceedings, comply with the provisions of this article of the Covenant.

Paragraph 3

57. As regards legal assistance, by section 64 of the Criminal Procedure law (chap. 155) the court may assign an advocate to defend the accused at the trial or at the hearing of an appeal from a judgement of an Assize Court if the gravity, difficulty or other circumstances make it desirable in the interests of justice. The duty of the court to assign an advocate is imperative in the case of an undefended person charged with an offence punishable with death. The remuneration of an advocate assigned by the court is paid out of public funds, the amount being determined by the court on scales fixed from time to time by the Supreme Court. In practice, the absence of a general scheme of legal aid has not been a source of injustice in criminal cases.

58. Under section 65 of the Criminal Procedure Law (chap. 155) the evidence, oral and other, must be interpreted in the language understood by the accused.

59. By section 74 (1) (c) of the Criminal Procedure Law (chap. 155) the accused may, if he so elects, remain silent and refrain from making a statement, sworn or unsworn. A confession is only admissible if it is the result of the free will of the accused to admit his guilt.

Paragraph 4

60. Juvenile persons are tried by juvenile courts in camera, in accordance with the provisions of the Juvenile Offenders Law (chap. 157, sects. 5 and 10).

Paragraph 5

61. Everyone convicted of a crime has the right to appeal to the Supreme Court both against conviction and/or sentence (Criminal Procedure Law, chap. 155 and the Courts of Justice Laws 14/60 and 33/64) and the appeal is dealt with by way of rehearing. In 1991 the Court of Justice Law No. 14 of 1960 was amended by Law No. 136 of 1991 so as to make the Assize Court one of regular session rather than of periodic session as it was in the past. This expedited the trial of civil as well as criminal cases owing to the fact that regularity is assured for this jurisdiction and there is no disruption of the schedule of work of other jurisdictions. The judges of which the Assize Court is composed serve for a period of two years, whereas before the judges were different for every session of this court. There were three sessions every year.

62. Also to expedite trials the number of judges was increased in 1991 from 34 to 45 (Courts of Justice (Amendment) Law 1991 (Law No. 237 of 1991)).

63. In 1989 a commission was set up with a view to inquiring into the administration of justice and making suggestions for improving the system. The commission, which was under the chairmanship of a Supreme Court judge, found that, in general, there were no delays in the trial of criminal cases.

64. Delays in criminal trials were strongly criticized in a number of decisions of the Supreme Court. In Efstathiou v. the Police (Criminal Appeal No. 5258 of 21 June 1990) the court went so far as to quash a conviction on the ground of delay. It held that the delay noted in the investigation and in the hearing of the case was contrary to article 30.2 of the Constitution.

65. It must also be mentioned that by an amendment of the Criminal Procedure Law, chapter 155, effected in 1991 by Law No. 142 of 1991 the right has been given to accused persons to be supplied with copies of all statements of witnesses and documents taken during the investigation of the case.

Article 15

66. This article corresponds to article 12 (1) of the Constitution which provides that "1. No person shall be held guilty of any offence on account of any act or omission which did not constitute an offence under the law at the time when it was committed; and no person shall have a heavier punishment imposed on him for an offence other than that expressly provided for it by law at the time when it was committed."

Article 16

67. Under the Constitution of Cyprus the fundamental rights of the individual are guaranteed to everyone as a person irrespective of whether he is a citizen of the Republic.

Article 17

68. There are corresponding provisions in articles 15, 16 and 17 of the Constitution which are as follows:

(a) Article 15.

"1. Every person has the right to respect for his private and family life.

"2. There shall be no interference with the exercise of this right except such as is in accordance with the law and is necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the rights and liberties guaranteed by this Constitution to any person."

(b) Article 16.

"1. Every person's dwelling house is inviolable.

"2. There shall be no entry in any dwelling house or any search therein except when and as provided by law and on a judicial warrant duly reasoned or when the entry is made with the express consent of its occupant or for the purpose of rescuing the victims of any offence of violence or of any disaster."

(c) Article 17.

"1. Every person has the right to respect for, and to the secrecy of, his correspondence and other communication if such other communication is made through means not prohibited by law.

"2. There shall be no interference with the exercise of this right except in accordance with the law and only in cases of convicted and unconvicted prisoners and business correspondence and communication of bankrupts during the bankruptcy administration."

69. There are also statutory provisions which protect the honour and reputation of any person such as the Civil Wrongs Law, chapter 148, sections 17 to 22, which deal with defamation and entitle the injured person to damages. Also, the Criminal Code Law, chapter 154, sections 194 to 202 deal with criminal libel which is considered as a criminal offence punishable with two years' imprisonment. In addition, under section 280 of the Code, the entry upon the property of another with intent to commit an offence is termed "criminal trespass" and is punishable with two years' imprisonment. Also, the Post Office Law, chapter 3030, sections 31 and 32 protect the secrecy of correspondence and make the violation of such secrecy a criminal offence. The Telegraphs Law, chapter 305, sections 15 and 16 protect the secrecy of telegrams.

70. The Republic of Cyprus, after having ratified the United Nations Convention against Illicit Traffic of Narcotic Drugs and Psychotropic Substances (Law No. 49 of 1990), embarked on an intensive and systematic revision of the legislation pertaining to the implementation of the provisions of the Convention. One of the measures which was considered as very effective in the fight against drugs was the surveillance of telephone and other communications (wire and telephone tapping). The enactment of a law was considered necessary for the purpose of making legal the surveillance of such communications under strict judicial control, but unfortunately owing to the very strict phrasing of article 17 of the Constitution, the enactment of such legislation could only be very restrictive and in particular possible in the cases of bankrupts and of convicted or unconvicted persons. Despite these restrictions a bill has been prepared making the surveillance of communication and the interference with correspondence permissible only in the case of bankrupts and convicted or unconvicted prisoners, always under strict and well-defined judicial control. The bill has been forwarded for enactment.

71. Another bill which is in the process of enactment is a bill for a law providing for information on public matters and the protection of official

documents. This bill strikes a balance between, on the one hand, the right of the citizen to be informed about the administration and other public matters and, on the other hand, the right of the State to secrecy on matters of a sensitive nature including the protection of information relating to the private life of citizens.

72. An important decision of the Supreme Court regarding privacy is the case Police v. Georgiades (Cyprus Law Reports 1983, part 2, p. 33), where it was held that the evidence of a prosecution witness concerning what he had heard by means of an electronic device regarding a conversation between the accused in the case and a third person is inadmissible in the light of the provisions of 15, 17, and 35 of the Constitution.

Article 18

73. This corresponds to article 18 of the Constitution which provides that:

"1. Every person has the right to freedom of thought, conscience and religion.

"2. All religions whose doctrines or rites are not secret are free.

"3. All religions are equal before the law. Without prejudice to the competence of the Communal Chambers under this Constitution, no legislative, executive or administrative act of the Republic shall discriminate against any religious institution or religion.

"4. Every person is free and has the right to profess his faith and to manifest his religion or belief, in worship, teaching, practice or observance, either individually or collectively, in private or in public, and to change his religion or belief.

"5. The use of physical or moral compulsion for the purpose of making a person change or preventing him from changing his religion is prohibited.

"6. Freedom to manifest one's religion or belief shall be subject only to such limitations as are prescribed by law and are necessary in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the rights and liberties guaranteed by this Constitution to any person.

"7. Until a person attains the age of sixteen the decision as to the religion to be professed by him shall be taken by the person having the lawful guardianship of such person

"8. No person shall be compelled to pay any tax or duty the proceeds of which are specially allocated in whole or in part for the purposes of a religion other than his own."

Article 19

74. This article corresponds to article 19 of our Constitution which provides as follows:

> "1. Every person has the right to freedom of speech and expression in any form.
>
> "2. This right includes freedom to hold opinions and receive and impart information and ideas without interference by any public authority and regardless of frontiers.
>
> "3. The exercise of the rights provided in paragraphs 1 and 2 of this article may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the reputation or rights of others or for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary.
>
> "4. Seizure of newspapers or other printed matter is not allowed without the written permission of the Attorney-General of the Republic, which must be confirmed by the decision of a competent court within a period not exceeding seventy-two hours, failing which the seizure shall be lifted.
>
> "5. Nothing in this article contained shall prevent the Republic from requiring the licensing of sound and vision broadcasting or cinema enterprises."

Restrictions are imposed by law in Cyprus but only within the limits allowed by the Constitution.

75. In 1989 a new Press Law was enacted (Law No. 145 of 1989). Under this Law a Press Council is set up, empowered to protect and promote the freedom and independence of the press in Cyprus. According to the provisions of section 7 of the same Law, journalists have a right to seek, receive and impart information.

76. A draft bill has been prepared entitled "Information and Official Documents Law", the aim of which is to grant individuals the right of information and right of access to official documents and, at the same time, to protect those documents which are considered confidential (see para. 71). This bill will shortly be submitted to the Council of Ministers for consideration.

77. In 1990 a law was enacted under the title "The Radio Stations Law 1990" (Law No. 120 of 1990) under which provision is made for the democratic establishment and operation of radio stations.

78. As to the rights of public servants, education officers and officials of public corporations (see below under art. 26).

Article 20

Paragraph 1

79. Section 40 of the Criminal Code (chap. 154) provides that "any person who, without lawful authority, carries on, or makes preparation for carrying on, or aids in or advises the carrying on of, in preparation for, any war or warlike undertaking with, from, by or against, any section, race or body of persons in the Republic, is guilty of a felony and is liable to imprisonment for life."

Paragraph 2

80. The following sections of the Criminal Code (chap. 154) are relevant:

> "Section 47. Any person who (a) conspires with any other person or persons to do any act in furtherance of any seditious intention common to both or all of them; or (b) publishes any words or document or makes any visible representation whatsoever with a seditious intention; is guilty of a felony and is liable to imprisonment for five years.
>
> "Section 48. For the purposes of the last preceding section a seditious intention is an intention ... (e) to raise discontent or disaffection amongst the Cypriot subjects or inhabitants of Cyprus: ... Provided that it shall be lawful for any person ... (iv) to point out in good faith, with a view to their removal, any matters which are producing or have a tendency to produce feelings of ill will and enmity between different communities or classes of the population of Cyprus.
>
> "Section 51. (1) Any person who prints, publishes, or to any assembly makes any statement calculated or likely to (i) encourage recourse to violence on the part of any of the inhabitants of Cyprus; or (ii) promote feelings of ill will between different classes or communities or persons in Cyprus; is guilty of misdemeanour and is liable to imprisonment for 12 months ... Provided that no person shall be guilty of an offence under the provisions of this section if such statement was printed, published or made solely for any one or more of the following purposes, the proof whereof shall lie upon him, that is to say: ... (d) to point out in good faith with a view to their removal, any matters which are producing or have a tendency to produce discontent amongst any of the inhabitants of Cyprus or feelings of ill will and enmity between different communities or classes of persons in Cyprus.
>
> "(2) For the purposes of this section 'an assembly' means a gathering of five or more persons."

81. A recent legislative development regarding acts amounting to incitement to discrimination, hostility, hatred, and violence on account of ethnic or racial origin or for religious reasons is the enactment of Law No. 11 (III) of 1992 which amended the International Convention on the Elimination of All Forms of Racial Discrimination (Ratification) Law of 1967 (No. 12 of 1967).

The amendment of the Law was effected by adding a section creating a number of offences relating to acts amounting to racial discrimination. The text of the Law is as follows:

"Section 2A of Law 11 of 1992. Offences.

"(1) Any person who publicly either verbally or through the press or by written document or pictures or by any other means, intentionally incites acts or activities which are likely to cause discrimination, hatred, or violence against a person or group of persons by reason only of their racial or ethnic origin or their religion is guilty of an offence and is liable to imprisonment not exceeding two years or to a fine not exceeding one thousand pounds or to both.

"(2) Any person who establishes or participates in organizations which promote organized propaganda or activities of any form aiming at racial discrimination is guilty of an offence and is liable to the punishment provided in subsection (1).

"(3) Any person who publicly either verbally or through the press or by written documents or pictures or by any other means expresses ideas insulting against a person or group of persons by reason of their racial or ethnic origin or their religion is guilty of an offence and is liable to imprisonment not exceeding one year or to a fine not exceeding five hundred pounds or to both.

"(4) Any person who by profession supplies goods or services and who refuses to a person such supply by reason only of his racial or ethnic origin or his religion or by making such supply subject to a term relating to his racial or ethnic origin or to his religion is guilty of an offence and is liable to imprisonment not exceeding one year or to a fine not exceeding four hundred pounds or to both such punishments."

Articles 21 and 22

82. These articles correspond to article 21 of the Constitution which provides that:

"1. Every person has the right to freedom of peaceful assembly.

"2. Every person has the right to freedom of association with others, including the right to form and to join trade unions for the protection of his interests. Notwithstanding any restriction under paragraph 3 of this Article, no person shall be compelled to join any association or to continue to be a member thereof.

"3. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are absolutely necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the rights

and liberties guaranteed by this Constitution to any person, whether or not such person participates in such assembly or is a member of such association.

"4. Any association the object or activities of which are contrary to the constitutional order is prohibited.

"5. A law may provide for the imposition of restrictions on the exercise of these rights by members of the armed forces, the police or gendarmerie.

"6. Subject to the provisions of any law regulating the establishment or incorporation, membership (including rights and obligations of members), management and administration, and winding up and dissolution, the provisions of this Article shall also apply to the formation of companies, societies and other associations functioning for profit."

83. Relevant laws regulating the rights safeguarded by these articles are:

(a) The Trade Union Laws;

(b) The Societies and Institutions Law;

(c) The Clubs (Registration) Law (chap. 112);

(d) The Cooperative Societies Laws;

(e) The Companies Law (chap. 113);

(f) Sections 70 to 79 of the Criminal Code (chap. 154) provide against unlawful assemblies, riots and other criminal offences against the common peace.

Article 23

Paragraph 1

84. The corresponding article in the Constitution is article 15 (1) which provides that "1. Every person has the right to respect for his private and family life."

Paragraphs 2 and 3

85. The corresponding article in the Constitution is article 22 (1) which provides that "1. Any person reaching nubile age is free to marry and to found a family according to the law relating to marriage, applicable to such person under the provisions of this Constitution."

86. The Republic of Cyprus proceeded in 1989 to amend for the first time its Constitution and in particular article 111 according to which matters of marriage and divorce were governed exclusively by the law of the Church and the jurisdiction of these matters belonged to the ecclesiastical courts. The amendment of the Constitution made possible the enactment of the Family Courts

Law 1990 (Law No. 23 of 1990) in consequence of which family courts were set up in which relevant matters of family relations were transferred. (See also para. 23.)

Article 24

87. Under section 40 of the Courts of Justice Law 1960 (Law No. 14 of 1960), a competent court has power to order the father of a child who neglects to maintain his child, before or after the dissolution of a marriage, to pay a sum of money for the maintenance and education of the child, as in the circumstances is reasonable.

88. The Children Law (chap. 352) provides for the protection and welfare of children in need of care, such as orphans, deserted children, etc. and for the assumption of parental authority by the Director of the Welfare Department, which is a government department, in proper cases. The same Law also provides for the periodical payment, by a father or mother of a child taken under the care of the Director, of sums of money for the child's maintenance.

89. The Guardianship of Infants and Prodigals Law (chap. 277) provides for the guardianship of the person and/or property of the infant or prodigal in their best interests. This Law has been repealed and substituted by the Parents and Children Relations Law 1990 (Law. No. 216 of 1990) which contains similar, improved provisions (see para. 23). The part of the Law relating to the administration of the properties of prodigals has been repealed. Also, the Illegitimate Children Law contains provisions for the legitimation of children born out of lawful wedlock either by subsequent marriage of the child's parents or by order of the court.

90. The Republic of Cyprus has ratified the Convention on the Legal Status of Children Born out of Wedlock. The Convention was ratified by the enactment of Law No. 50 of 1979 (see paras. 5 and 23). Certain provisions of the Convention are self-executing and were so found in the case of Malachtou v. Armeftis and another (Civil Appeal No. 6616 of 20 January 1987). Provision is also made for the payment by the putative father of a child born out of lawful wedlock of sums of money towards the child's maintenance by order of the court (affiliation order).

91. The Births and Deaths Law (chap. 275) imposes a duty on the father or mother or, in default of father and mother, of the doctor or midwife, etc. to give to the Commissioner of the District information concerning the birth of a child for registration.

92. Under the Citizenship of the Republic Law 1967 (Law No. 43 of 1967) all children acquire automatically the nationality of the father at the time of birth.

TRANS. NOTE: "PRODIGAL" IS DEFINED AS "A PERSON WHO BY REASON OF HIS PROFUSE OR WASTEFUL EXPENDITURE IS NOT ENTITLED TO ADMINISTER HIS OWN PROPERTY".

93. Under the education laws of Cyprus, elementary education is compulsory up to the age of 12 and free education in secondary schools is afforded in the three lower forms. By a recent law (20 May 1993, not yet published) the age of compulsory education was raised to 15 and free education is offered for all forms of secondary education.

94. The Republic of Cyprus has ratified the Convention on the Rights of the Child (Law No. 243 of 1990) and is taking all necessary steps for the implementation of the provisions of the Convention.

95. In 1992 Cyprus acquired its first university (The Cyprus University Law 1989, Law No. 144 of 1989). The education for citizens of the Republic is substantially subsidized and it becomes virtually free for good students under a generous scheme of financial assistance.

Article 25

96. The rights safeguarded by the provisions of this article are guaranteed by the provisions of articles 31, 63 and 64 of the Constitution of Cyprus:

(a) Article 31: "Every citizen has, subject to the provisions of this Constitution and any electoral law of the Republic or of the relevant Communal Chamber made thereunder, the right to vote in any election held under this Constitution or any such law.";

(b) Article 63: "1. Subject to paragraph 2 of this Article every citizen of the Republic who has attained the age of twenty-one years and has such residential qualifications as may be prescribed by the Electoral Law shall have the right to be registered as an elector in either the Greek or the Turkish electoral list:

Provided that the members of the Greek Community shall only be registered in the Greek electoral list and the members of the Turkish Community shall only be registered in the Turkish electoral list.

"2. No person shall be qualified to register as an elector who is disqualified for such registration by virtue of the Electoral Law.";

(c) Article 64: "A person shall be qualified to be a candidate for election as a Representative if at the time of the election that person -

"(a) is a citizen of the Republic;

"(b) has attained the age of twenty-five years;

"(c) has not been, on or after the date of the coming into operation of this Constitution, convicted of an offence involving dishonesty or moral turpitude or is not under any disqualification imposed by a competent court for any electoral offence;

"(d) is not suffering from a mental disease incapacitating such person from acting as a Representative."

The Electoral Law of Cyprus regulates the exercise of the above constitutional rights.

97. The right of every citizen to have access, on general terms of equality, to public service in Cyprus, was regulated by the Public Service Law 1967 (Law No. 33 of 1967) and is now regulated by the Public Service Law 1990 (Law No. 10 of 1990) by which the previous Law is repealed (see also para. 101).

98. No person shall be qualified to be registered as an elector who is disqualified for such registration by virtue of the Electoral Law.

99. In 1991 the Republic enacted a law for the appointment of a Commissioner for Administration which is yet another improvement of the protection of the rights of citizens safeguarded under this article of the Convention (see para. 7).

Article 26

100. There is a corresponding provision in article 28 (1) of the Constitution which provides that "all persons are equal before the law, the administration and justice and are entitled to equal protection thereof and treatment thereby".

101. In 1990 a new Law was enacted regulating matters relating to the public service, the appointment, transfer, promotion and retirement of public servants and their rights, duties and responsibilities. The Law, entitled Public Service Law 1990 (Law No. 1 of 1990), safeguards the political rights of public servants. Subject to certain reasonable and necessary constraints, a public servant can freely express his political views, belong to political parties and participate in political rallies but cannot use his official position or influence or do any act aiming at influencing the political views of other people. Provision is made as to the procedure a public servant can follow in case he wishes to be a candidate for the presidency or the House of Representatives.

102. The same political rights given to public servants under Public Service Law 1990 were also given to education officers by the Educational Service Law of 1969 (as amended in 1991 by Law No. 251 of 1991). The rights of education officers are subject virtually to the same restrictions as the rights of the public servants (sect. 60 of Law No. 251 of 1991). In respect of this Law the President of the Republic under the provisions of article 140 of the Constitution referred to the Supreme Court for its opinion as to whether the restrictive provisions regarding the rights of education officers under the Law were contrary to certain articles of the Constitution (arts. 21.2, 28, 35, 46, 54, 58, 61 and 179). The Supreme Court decided that the Law was not contrary to the provisions of the Constitution (Reference No. 3 of 1991 dated 13 December 1991).

103. In 1990 yet another Law was enacted under the title Public Corporation (Evaluation, Freedom of Expression of Opinion and Political Rights of Servants) Law 1990 (Law No. 155 of 1990) and was amended by Law No. 210

of 1991. This Law gives to the servants of public corporations the same political rights as those enjoyed by public servants and education officers.

104. In this connection it must be mentioned that at present there is a bill pending, providing for the administration of the estates of persons disabled for any reason, mental, physical or other, from administrating their own estates or managing their own affairs. The enactment of this bill into law will give the courts power to appoint administrators in such cases or to sanction acts performed on behalf of disabled persons including the testamentary disposition of property; such persons will therefore enjoy equality in the exercise of their rights despite their disabilities.

Article 27

105. The corresponding articles in the Constitution are:

(a) Article 18 (about religion, which was set out above);

(b) Article 20 which provides that:

"1. Every person has the right to receive, and every person or Institution has the right to give, instruction or education subject to such formalities, conditions or restrictions as are in accordance with the relevant communal law and are necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or the standard and quality of education or for the protection of the rights and liberties of others including the right of the parents to secure for their children such education as is in conformity with their religious convictions.

"2. Free primary education shall be made available by the Greek and the Turkish Communal Chambers in the respective communal primary schools.

"3. Primary education shall be compulsory for all citizens of such school age as may be determined by a relevant communal law.

"4. Education, other than primary education, shall be made available by the Greek and the Turkish Communal Chambers, in deserving and appropriate cases, on such terms and conditions as may be determined by a relevant communal law".

Article 6 of the Constitution provides that "no law or decision of the House of Representatives and no act or decision of any organ, authority or person in the Republic exercising executive power or administrative functions shall discriminate against the two communities or any person as a person or by virtue of being a member of a community.

Conclusion

106. The Republic of Cyprus is very conscious and very sensitive regarding the respect of human rights, and the effort for giving effect to all conventions safeguarding such rights is continuous and intensive. In this respect it must be mentioned that the Council of Ministers in a recent decision authorized and entrusted the Law Commissioner to prepare the reports which are periodically submitted to the committees set up under the provisions of the various Conventions and also to keep the domestic legislation under constant review for the purpose of its harmonization with the provisions of the Conventions. The Law Commissioner in the execution of the above duties must act in cooperation with the Ministry of Foreign Affairs, the Ministry of Justice and Public Order, the Attorney-General, the Commissioner for Administration and other Ministries involved.

Annex

FACTORS OR DIFFICULTIES AFFECTING THE ENJOYMENT OF THE RIGHTS RECOGNIZED IN THE COVENANT BY PERSONS WITHIN THE JURISDICTION OF THE STATE

1. The Government of the Republic of Cyprus regrets to state that it continues to be unable to ensure the enjoyment of the rights recognized in the Covenant by all individuals throughout the territory of the Republic. In fact, it is still prevented, by the use of force, from applying the provisions of the Covenant to the Greek and Turkish Cypriots living in the territory of the Republic of Cyprus, which continues to be under the unlawful military occupation and effective control of Turkey as a consequence of the 1974 invasion.

2. Since the 1974 Turkish invasion and the occupation of about 37 per cent of the territory of the Republic of Cyprus, Turkey continues to violate the human rights and fundamental freedoms of the people of Cyprus as a whole.

3. Since the first periodic report of Cyprus, submitted in May 1978, both the General Assembly and the Security Council of the United Nations, as well as the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, have adopted numerous decisions and resolutions, containing provisions on all aspects of the Cyprus problem, including human rights.

4. By resolution 33/15 of 9 November 1978, the General Assembly demanded the immediate and effective implementation of resolution 3212 (XXIX), unanimously adopted by the General Assembly and endorsed by the Security Council in its resolution 365 (1974) of 13 December 1974; demanded the immediate withdrawal of all foreign armed forces and foreign military presence from the Republic of Cyprus and called for respect of the human rights of all Cypriots and the instituting of urgent measures for the voluntary return of the refugees to their homes in safety.

5. To the same effect are the provisions of resolution 34/30 of 20 November 1979 by the General Assembly, which also affirmed the right of the Republic of Cyprus and its people to full and effective sovereignty and control over the entire territory of Cyprus and its natural and other resources and called upon all States to support and help the Government of Cyprus to exercise the above-mentioned rights.

6. The General Assembly, in its resolution 37/253 of 13 May 1983, reiterated all the provisions of previous resolutions and, in addition, condemned any act which tended to undermine the full and effective exercise of the rights of the Republic of Cyprus and its people, including the unlawful issue of titles of ownership of property; it considered the withdrawal of all occupation forces from the Republic of Cyprus as an essential basis for a speedy and mutually acceptable solution of the Cyprus problem; it demanded the immediate withdrawal of all occupation forces from the Republic of Cyprus and it called for respect of the human rights and fundamental freedoms of all Cypriots,

including the freedom of movement, the freedom of settlement and the right to property, and the instituting of urgent measures for the voluntary return of the refugees to their homes in safety.

7. Following the purported declaration of independence in the occupied part of Cyprus the Security Council adopted on 18 November 1983 resolution 541 (1983) which, inter alia, deplored the declaration of the purported secession of part of the Republic of Cyprus, considered the declaration as legally invalid and called for its withdrawal, called for the urgent and effective implementation of its resolutions 365 (1974) and 367 (1975) and called on all States not to recognize any Cypriot State other than the Republic of Cyprus.

8. The Security Council was again seized on 11 May 1984 following new threats to colonize the Greek sector of the city of Famagusta and further secessionist acts. The Security Council by resolution 550 (1984) condemned all secessionist actions, including the purported exchange of ambassadors between Turkey and the secessionist entity, declared them illegal and invalid and called for their immediate withdrawal, reiterated the call upon all States not to recognize the purported State of the "Turkish Republic of Northern Cyprus" set up by the secessionist acts and called upon them not to facilitate or in any way assist the aforesaid secessionist entity. The resolution also considered attempts to settle any part of Varosha by people other than its inhabitants as inadmissible and called for the transfer of this area to the administration of the United Nations.

9. The General Assembly also adopted a number of resolutions on the question of missing persons in Cyprus. A total of 1,619 Greek Cypriots, who in most cases were seen alive in the hands of the Turks well after the cessation of the hostilities in August 1974, have not been seen since and their fate remains unknown. The General Assembly, in its resolution 3450 (XXX) of 9 December 1975, expressed concern "about the fate of a considerable number of Cypriots who are missing as a result of armed conflict in Cyprus" and reaffirmed "the basic human need of families in Cyprus to be informed about missing relatives". The General Assembly, in resolution 37/181 of 17 December 1982, expressing concern that the Committee on Missing Persons in Cyprus, the establishment of which had been announced on 22 April 1981, had failed to overcome procedural difficulties and had achieved no progress towards the commencement of its investigative work, invited the Working Group on Enforced or Involuntary Disappearances of the Commission on Human Rights to recommend ways and means of overcoming the pending procedural difficulties of the Committee.

10. The Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities have also adopted a number of resolutions since 1975 on the violation of human rights in Cyprus.

11. The Commission on Human Rights, by its resolution 4 (XXXI) of 13 February 1975, called upon all parties concerned to adhere strictly to the principles of the Charter of the United Nations, international instruments in the field of human rights and the relevant resolutions of the General Assembly and the Security Council and to undertake urgent measures for

the return of all refugees to their homes in safety; it also called for the intensification of efforts aimed at tracing and accounting for missing persons.

12. In its resolution 4 (XXXII) of 27 February 1976 the Commission renewed its call upon the parties concerned to undertake urgent measures to facilitate the voluntary return of all refugees and displaced persons to their homes in safety and to settle all other aspects of the refugee problem, and urged all parties to refrain from unilateral actions in contravention of the relevant United Nations resolutions, including changes in the demographic structure of Cyprus.

13. Resolution 17 (XXXIV) of the Commission adopted on 7 March 1978 reiterated all the previous provisions. In resolution 1987/50 adopted on 11 March 1987 the Commission, expressing alarm by the fact that changes in the demographic structure of Cyprus were continuing with the influx of great numbers of settlers, reiterated its previous calls for the full restoration of all human rights to the population of Cyprus, in particular to the refugees; considered attempts to settle any part of Varosha by people other than its inhabitants as illegal; called for the tracing and accounting for missing persons in Cyprus without any further delay; and called for the restoration and respect of the human rights and fundamental freedoms of all Cypriots, including the freedom of movement, the freedom of settlement and the right to property.

14. Finally, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in its resolution 1987/19 adopted on 2 September 1987, considering that the withdrawal of all foreign armed forces from the Republic of Cyprus would contribute to the restoration of human rights and fundamental freedoms of all Cypriots, demanded the full restoration of all human rights to the whole population of Cyprus, including the three freedoms; expressed its great concern and anguish about the fate of the missing persons; expressed its concern also at the policy and practice of the implantation of settlers in the occupied territories of Cyprus, which constituted a form of colonialism and an attempt to change illegally the demographic structure of Cyprus.

15. Turkey, in utter disregard of the aforesaid resolutions, has not yet withdrawn its armed forces and continues to occupy nearly 37 per cent of the territory of the Republic of Cyprus.

16. The Turkish invasion and the military occupation of part of the territory of Cyprus has brought about the collective denial of all human rights and fundamental freedoms of the people of Cyprus. For occupation per se constitutes a negation of all these rights, high among them the right to self-determination as recognized by article 1 (1) of the Covenant, i.e. the right of all peoples "to freely determine their political status and freely pursue their economic, social and cultural development".

17. Moreover, Turkey, by its continuing occupation and its policy of ethnic cleansing as regards the occupied area of Cyprus, namely the forcible uprooting of the indigenous Greek-Cypriot population from these areas, the refusal to allow them to return, the implantation of settlers from Turkey

aimed at changing the demographic structure of Cyprus, the destruction of the cultural heritage of the occupied areas, etc. aims at creating by artificial means a Turkish-populated area, in furtherance of Turkey's policy for the geographical separation of the two communities, the secession of the occupied part and its ultimate annexation to Turkey.

18. The above acts of Turkey, backed by the might of its military machine, which is in full control of the occupied area, make it absolutely impossible for the Government of Cyprus to fulfil its obligations under a series of provisions of the Covenant.

19. We set out below some of the measures taken by Turkey which continue to have the effect of preventing the enjoyment by thousands of people in Cyprus of their rights as recognized by the Covenant.

A. Displacement of persons and refusal to allow the return of the displaced persons

20. Turkey continues to prevent about 200,000 Greek Cypriot inhabitants of the occupied areas, who were forcibly expelled in 1974 and afterwards, from returning to their homes. Turkey also forced almost all the remaining Greek Cypriots in the occupied area (20,000 in August 1974) to leave their homes and to take refuge in the Government-controlled area. Between 27 August 1974 and December 1992 over 19,000 Greek Cypriots were forced to sign "applications" and leave the occupied area. These acts constitute a denial of the rights guaranteed in articles 12 (10) and 17 (1) of the Covenant.

21. It should be mentioned in this respect that the European Commission on Human Rights, in its report on the Third Recourse of the Government of Cyprus against the Government of Turkey, found Turkey responsible for the displacement of persons. More specifically, the Commission concluded that "by her refusal to allow over 170,000 Greek Cypriots to return to their homes in the north of Cyprus, Turkey continues to violate Art. 8 in all these cases". (Part IV - Conclusions, Report of the European Commission on Human Rights on Application No. 8007/77). The Commission further "confirmed the finding made in its Report on the previous applications, that displaced Greek Cypriots in the south part of Cyprus are physically prevented from returning to the northern area as a result of the fact that the demarcation line across Cyprus is sealed off by the Turkish army". (Para. 133 of the above Report.)

B. Enclaved Greek Cypriots

22. As a result of the Turkish invasion and occupation, approximately 20,000 Greek Cypriots remained in their villages in the occupied area in the wake of the invasion (S/11488, annex, para. 4). Out of these 20,000 only a few hundred now remain (544 in December 1992. S/24917, para. 25). This is the result of a persistent policy of harassment, racial discrimination, intimidation and coercion carried out by the Turkish occupation army in order to force the Greek Cypriots enclaved to move to the part under the Government's control. These enclaved persons live under highly restrictive conditions and continue to suffer flagrant violations of their basic human rights and freedoms, contrary to international humanitarian law and the Vienna III Agreement of 2 August 1975, an agreement reached under the auspices

of the Secretary-General aimed at improving the living conditions of Greek Cypriots in the occupied area, to provide them with facilities for education and for the practice of their religion, as well as medical care by their own doctors and freedom of movement in the occupied area, to secure free and normal access by UNFICYP to Greek Cypriot villages and habitations in that area, so as to put a stop to their further expulsion, and to give priority to the reunification of families by allowing Greek Cypriots forcibly evicted from their homes in the occupied area to return thereto (S/11789, annex 5).

23. In flagrant violation of this agreement, as well as internationally accepted principles of human rights and humanitarian law, the Turkish occupation regime continues to apply a racist and inhuman policy against the Greek Cypriots enclaved, including:

(a) Denial of access to medical doctors and educational facilities. No Greek Cypriot doctors were allowed to be settled in the area or visit the enclaved on a regular basis. No high schools were allowed to operate, resulting in further expulsions and separations of families, the children being forced to pursue their studies in the Government-controlled area. The two Greek Cypriot primary schools in the Karpas operate under primitive conditions, while censorship of basic textbooks (on history, religion, geography of Cyprus and Greek literature) and undue delays in deliveries of books and other educational material further hamper the education of the enclaved children;

(b) Separation of families. Many families are still separated as a result of the forcible division of the country and its people. As mentioned above, due to the refusal of the Turkish occupation authorities to allow the operation of secondary schools in the area inhabited by the enclaved, the Greek Cypriot enclaved children, when they reach the age of 12, have no choice but to go to the Government-controlled area to attend school there. These children are not allowed by the Turkish occupation regime to visit their parents in the occupied areas, except for Christmas, Easter and summer vacation. When boys reach the age of 16 and girls the age of 18 they are not allowed to return to their homes, even to visit their parents during holidays. Relatives of the enclaved living in the Government-controlled area are not allowed to visit them in the occupied area, even in cases of deaths or funerals. The separation of families under such inhuman policies is a clear method of "ethnic cleansing" carried out in order to force the few remaining Greek Cypriots in the occupied area to join their relatives in the Government-controlled area. It should be mentioned in this respect that the European Commission of Human Rights, in its report on the Third Application of the Government of Cyprus against Turkey, further concluded that, "in the cases of continued separation of families from Turkey's refusal to allow the return of Greek Cypriots to their family members in the north, Turkey continues to violate Art. 8 of the Convention";

(c) Restrictions of movement. The Greek Cypriots enclaved are restricted to their villages and immediate surroundings. For any movement outside their villages they have to submit an "application" and seek special permission from the "authorities". Inhuman restrictions also continue to be imposed concerning temporary visits of the enclaved Greek Cypriots to the Government-controlled areas;

(d) Restrictions in the movement of UNFICYP. The United Nations Peace Keeping Force in Cyprus which, under the Vienna III Agreement, should have "free access to Greek Cypriot villages and habitations" in the occupied area, has been severely restricted by the occupation authorities to perform its responsibilities concerning the enclaved. The Secretary-General, in his report to the Security Council dated 30 November 1991 (S/24050), stated: "In addition, on a number of occasions UNFICYP was impeded by the Turkish Cypriot police element while conducting humanitarian tasks in support of Greek Cypriots in the north. Access to the Greek Cypriots living in the Karpas peninsula by UNFICYP humanitarian staff and civilian police was on several occasions denied and on three occasions UNFICYP staff were delayed and verbally abused by police officials. UNFICYP must rely on the steadfast cooperation of all parties and uninterrupted freedom of movement in carrying out its established and important humanitarian duties and responsibilities" (para. 7). In another report the Secretary-General described the restrictions imposed on UNFICYP as follows: "In line with the Vienna III agreement concerning the support provided by UNFICYP to the Greek Cypriot population living in the northern part of the island, the Liaison post at Leonarisso was reopened in May 1990 and manned by SWEDCIVPOL in conjunction with AUSCON personnel. The Turkish Cypriot authorities, however, objected to the presence of SWEDCIVPOL in the Kapras and also insisted that they should not accompany the resupply convoys to the area. In October 1990 one member of AUSCON was detained by the Turkish Cypriot police after leaving the Liaison post to respond to a complaint by a Greek Cypriot woman living in the Karpas that several members of the Turkish Cypriot police had entered and searched her home. UNFICYP is pursuing its efforts to carry out its responsibilities in that area" (S/21981, para. 28);

(e) Forced or compulsory labour by the enclaved. All-male Greek Cypriots enclaved from the age of 18 to 50 are forced to report to the "police station" in Rizokarpaso every Friday at 3 p.m. There they have to wait for 45 to 60 minutes. During this time they are forced by the "policemen" on duty to clean the "station", the yard and the adjacent streets;

(f) Harassment, intimidation and violence. The enclaved are subjected to constant harassment and there have been many cases over the years of violent actions against the enclaved, including arson, theft, assault, robbery and murder.

C. Colonization by Turkey of the occupied area

24. The continuing colonization by Turkey of the occupied area through the massive importation of settlers from mainland Turkey and their settlement into the homes of the displaced Greek Cypriots is yet another proof of the Turkish objectives, i.e. to turn the occupied area into a wholly Turkish-populated area, thus preventing the return of the indigenous Greek Cypriot inhabitants. Moreover, the settlers were given "citizenship" and "voting rights" in an attempt to adulterate the will of the Turkish Cypriot community and provide support to the occupation regime.

25. It is estimated that the settlers now well exceed 80,000 and Turkish Cypriot opposition reports and demographic analysis of available data support such an estimate. The other tragic aspect of the demographic situation in the

occupied area is the fact that the Turkish Cypriots continue to emigrate because of increasing unemployment and violations of their basic human rights and freedoms. It is estimated that since 1974 over 30,000 have left the island. These figures show that settlers now form a major proportion of the population of the occupied area. Over 80,000 out of a population of 180,000 is significant enough to play a decisive role in the political and economic activity of those areas, while at the same time serving the objectives of Turkey's settler policy which can be summarized as follows:

(a) To distort the population balance on the island between Turkish speakers and Greek Cypriots, with a view to justifying the disproportionately large claims of the Turkish side with respect to land and political power;

(b) To maintain a body of people in the occupied part that can hold the balance of political power and ensure that the Turkish Cypriot leadership is in line with Turkey's policy and objectives;

(c) To present an obstacle to the solution of the Cyprus problem;

(d) To provide additional trained reserves in Cyprus for the Turkish occupation forces in Cyprus (now reaching 35,000);

(e) To change the demographic composition of the population so that Turkish speakers outnumber the Greek Cypriots.

26. The settlement policy of Turkey in Cyprus recently received the attention of the Parliamentary Assembly of the Council of Europe when the latter adopted, last October, a recommendation based on the report of the Rapporteur of the Committee on Refugees, Migration and Demography, Mr. Alfonse Cuco, regarding the Turkish colonization of the occupied area of Cyprus. Mr. Cuco visited Cyprus in 1991 and reported extensively about the massive influx of Turkish mainland settlers to the occupied area, a policy which he characterized as an obstacle to the finding of a solution to the Cyprus problem. (Doc. 6589 dated 27 April 1992, Parliamentary Assembly of the Council of Europe.) The Parliamentary Assembly, based on the report submitted by Mr. Cuco, condemned the colonization policy of Turkey by its adoption on 7 October 1992 of recommendation No. 1187 (1992). The Assembly's recommendation will no doubt contribute and add its weight to the Cyprus Government's efforts aiming at the withdrawal of all Turkish settlers and the full restoration of the human rights and fundamental freedoms of the people of Cyprus as a whole.

27. The Government of Cyprus has endeavoured, in compliance with paragraph 2 of article 40, to indicate in this report the factors and difficulties affecting the implementation of the Covenant in Cyprus.